

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN ANDR'E WARREN,

Plaintiff,

v.

CASE NO. 04-CV-74876-DT
HON. JOHN CORBETT O'MEARA

DAVID A. WALTERS, JOHN A. HALLACY,
DAVID A BARNES, MARVIN RATNER,
STEPHEN B. MILLER, DAVID L. BARNETT,
and ANDREW JACKSON,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION
FOR AN ORDER OF AUTHORIZATION

Plaintiff Brian Andr'e Warren initiated this action by filing a complaint under 28 U.S.C. § 1343(a)(3). On February 10, 2005, the Court dismissed the complaint as frivolous and for failure to state a claim, because Plaintiff was attacking his state court conviction. In addition, Plaintiff lacked authority as a private citizen to initiate a federal criminal prosecution, and some of the defendants were immune from suit or did not act under color of law.

Currently pending before the Court is Plaintiff's "Motion for an Order of Authorization, by March 15, (2005) for the U.S. Attorney to investigate and initiate Federal Criminal Prosecution for Violation of 18 U.S.C. sec. 241 - 242." The motion and exhibits allege that defendants David Walters, John Hallacy, and David A. Barnes filed a felony complaint against Plaintiff despite Plaintiff's immunity from all forms of judicial process. Plaintiff seeks authorization from the Court to have the United States Attorney initiate a criminal prosecution against the defendants.

The Court cannot grant the requested relief because “the Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case.” *United States v. Nixon*, 418 U.S. 683, 693 (1974). Accordingly, Plaintiff’s motion for authorization [Doc. #6, Feb. 18, 2005] is DENIED.

s/John Corbett O'Meara
John Corbett O'Meara
United States District Judge

Dated: May 6, 2005